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Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
1992 Annual Access Tariff Filings) CC Docket No. 92-141

ORIGINAL FILE

REPLY IN SUPPORT OF APPLICATION FOR PARTIAL REVIEW

The Ameritech Operating Companies[1] (the "Companies") submit this reply to the comments filed on their application for partial review.[2] In their application, the Companies asked the Commission to review that aspect of the Bureau's order in the above-captioned proceeding[3] that requires the Companies to allocate their overall interstate price cap sharing amount based on relative basket revenues and prohibits the Companies from using basket-specific earnings as the allocator.

In their oppositions, both AT&T and MCI misperceive the scope of the Companies' request. Both AT&T and MCI argue that the Companies' application is an untimely challenge to the Commission's decision to include the Interexchange basket in the price cap sharing mechanism.[4] That is not the case. While the Companies do not agree with the decision of the Commission to include the Interexchange basket in the determination of a price cap local exchange carrier's sharing obligations, their application for review does not ask

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[1] The Ameritech Operating Companies are: Illinois Bell Telephone Company, Indiana Bell Telephone, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc.

[2] The Companies' application was opposed by AT&T and MCI, and supported by Bell Atlantic.

[3] *In the Matter of 1992 Annual Access Tariff Filings*, CC Docket No. 92-141, Memorandum Opinion and Order, DA 92-841 (released June 22, 1992)("Bureau Order").

[4] AT&T at 4; MCI at 3.

the Commission to change its decision in that regard. Rather, the Companies merely point to the distortion that resulted from the inclusion of a service category, which had never been subject to rate of return regulation, in with rate of return regulated services in calculating a sharing amount that is measured on achieved rate or return. Further, the Companies show that the effect of that distortion on customers could be mitigated in the Companies' case by allocating the total interstate sharing obligation back to individual service baskets on the basis of relative basket earnings.[5]

Moreover, MCI incorrectly concludes that the Companies seek reversal of the Commission's determination that a price cap LEC's overall sharing obligation should be determined on the basis of total interstate earnings as opposed to basket-by-basket returns.[6] Nothing could be farther from the truth. The Companies completely agree with the Commission's determination in that regard. Rather, the issue is how to allocate the overall interstate sharing amount once it is determined. And, as the Companies' application shows, in cases in which an Interexchange basket of significant size distorts the overall interstate earnings figure,[7] the effects of that distortion can be minimized by flowing back to Interexchange customers a reasonable portion of the sharing amount which their payments for services helped generate.

Given the unusual effect that the inclusion of the Interexchange basket in sharing calculations would have for many carriers, the Commission can achieve

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[5] The Companies do admit, however, that, if the Commission did decide to reverse its decision to include the Interexchange basket, then many of the problems that would have resulted from the allocation of the overall interstate service obligation back to the remaining three baskets by relative basket revenues would largely disappear.

[6] MCI at 3.

[7] As the Companies pointed out, had the Interexchange basket not been included in their sharing calculation, the Companies would have had no sharing obligation at all.

a reasonable result for those carriers and their customers in one of two ways -- either by allowing the Interexchange basket to be excluded from sharing calculations altogether or by permitting those carriers to allocate their sharing obligation in a manner that reasonably compensates for that basket's impact. While the Companies are not in their application asking the Commission to take the first alternative,[8] they do ask that the Bureau's decision to foreclose the second option be reversed.

It is significant that the Commission, in the Price Cap Reconsideration Order, flatly refused to prescribe any single way to allocate the overall interstate sharing amount among the service baskets.[9] While it is true that the Commission refused MCI's request to <u>require</u> that sharing be allocated based on basket earnings, the Commission did not <u>prohibit</u> the use of that methodology. Instead, it found no need "to specify a particular method of reflecting 'costs causation'."[10] In other words, the Commission wisely decided to permit carriers the flexibility to develop reasonable allocation methodologies -- as long as those methodologies were "cost causative." The Bureau, on the other hand, has destroyed that flexibility by effectively decreeing that there is only one single correct way to allocate a carrier's sharing obligation -- <u>i.e.,</u> by relative basket revenues. Moreover, in so doing, the Bureau has essentially adopted a rule modifying the Commission's price cap plan without following appropriate rulemaking procedure.

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[8] Obviously, such a request could be viewed as either an untimely petition for reconsideration or a new petition for rulemaking.

[9] *In the Matter of Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Memorandum Opinion and Order on Reconsideration, FCC 91-115 (released April 17, 1991) at ¶ 113.

[10] *Id.*

While the Companies do not contend that allocation by basket revenues is not appropriate in some -- or even many -- circumstances, they do maintain that, in their case, the use of relative basket earnings as an allocator is reasonable and "cost causative" because it flows back to Interexchange customers a reasonable portion of the sharing amount that their payments generated. Otherwise, as Bell Atlantic has pointed out in their comments in support of the Companies' application, the result will be a payment flowing from the Companies' residential and business end user Interexchange customers directly into the pockets of the shareholders of AT&T, MCI, and other interexchange carriers. Such a result would clearly not bring the benefits of price cap regulation to consumers -- as the Commission originally envisioned.

In light of the foregoing, the Commission should grant the Companies' application for partial review and find that, in this case, the Companies' proposed method of sharing allocation is reasonable and permissible.

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CERTIFICATE OF SERVICE

I, Jenell Thompson, do hereby certify that a copy of the Reply in Support of Application for Partial Review of the Ameritech Operating Companies has been mailed this 17th day of July, 1992, by first-class mail, postage prepaid, to the parties on the attached service list.

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